

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA,

Case No: CR 12-0778 SBA

Plaintiff,

VS.

## OSCAR BAKER PHILLIPS,

# ORDER ACCEPTING AMENDED REPORT AND RECOMMENDATION REGARDING GUILTY PLEA

Defendant.

## Docket 29

On February 26, 2013, the Court referred this matter to Magistrate Judge Westmore ("the magistrate") for a report and recommendation on the acceptance of Defendant's guilty plea. Dkt. 24. On March 5, 2013, the Defendant appeared before the magistrate and, with the assistance of counsel, waived his right to enter a guilty plea before a district judge and instead consented to enter his plea in a hearing before the magistrate. See Dkt. 29. The magistrate conducted a full hearing in the manner set forth in Federal Rule of Criminal Procedure 11. Id. After the advisements set forth in Rule 11, the Defendant entered a guilty plea in open court. Specifically, the Defendant pled guilty pursuant to a written plea agreement to the sole count in the Indictment charging Defendant with possession with intent to distribute and distribution of cocaine base within 1,000 feet of a school in violation of 21 U.S.C. §§ 841(a)(1) and 860. Id. The magistrate found that Defendant was fully competent and capable of entering an informed plea, that he was aware of the nature of the charges and the consequences of the guilty plea, and that the guilty plea was knowing and voluntary and supported by an independent factual basis. Id.

28

1 On March 5, 2013, the magistrate issued a Report and Recommendation Regarding  
2 Guilty Plea. Dkt. 25. On May 16, 2013, the magistrate issued an Amended Report and  
3 Recommendation Regarding Guilty Plea in which she recommends that this Court accept  
4 Defendant's guilty plea. Dkt. 29. The Amended Report and Recommendation advises the  
5 parties that they may serve and file specific written objections to the order within fourteen  
6 days after being served with a copy of the order. *Id.* No written objections to the Amended  
7 Report and Recommendation were filed prior to the hearing. At the May 20, 2013  
8 sentencing hearing in this matter, the parties indicated that they have no objections to the  
9 Amended Report and Recommendation. Accordingly,

10 IT IS HEREBY ORDERED THAT the magistrate's Amended Report and  
11 Recommendation (Dkt. 29) is ACCEPTED, the Defendant's guilty plea is accepted, and the  
12 magistrate's Amended Report and Recommendation shall become the order of this Court.

13 IT IS SO ORDERED.

14 Dated: 5/20/13

  
15 SAUNDRA BROWN ARMSTRONG  
16 United States District Judge

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28